



Rep. Elizabeth Hernandez

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1 AMENDMENT TO HOUSE BILL 4169

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4169 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Domestic Workers' Bill of Rights Act.

6 Section 5. Purpose and findings. Domestic workers play a  
7 critical role in Illinois' economy, working to ensure the  
8 health and prosperity of Illinois families and freeing others  
9 to participate in the workforce. Despite the value of their  
10 work, domestic workers have historically been excluded from the  
11 protections under State law extended to workers in other  
12 industries. Domestic workers are predominantly women who labor  
13 to support families and children of their own and who receive  
14 low pay and minimal or no benefits. Without clear standards  
15 governing their workplaces and working alone and behind closed  
16 doors, domestic workers are among the most isolated and

1 vulnerable workforce in the State. Workforce projections are  
2 one of growth for domestic workers, but the lack of decent pay  
3 and other workplace protections undermines the likelihood of  
4 building and maintaining a reliable and experienced workforce  
5 that is able to meet the needs of Illinois families. Therefore,  
6 the General Assembly finds that because domestic workers care  
7 for the most important elements of Illinoisans' lives--our  
8 families and our homes--it is in the interest of employees,  
9 employers, and the people of Illinois to ensure that the rights  
10 of domestic workers are respected, protected, and enforced, and  
11 that this Act shall be interpreted liberally to aid this  
12 purpose.

13 Section 10. Definitions. As used in this Act:

14 "Department" means the Department of Labor.

15 "Director" means the Director of Labor and his or her  
16 authorized representatives.

17 "Domestic work" means: (1) housekeeping; (2) house  
18 cleaning; (3) home management; (4) nanny services including  
19 childcare and child monitoring; (5) caregiving, personal care,  
20 or home health services for elderly persons or persons with an  
21 illness, injury, or disability who require assistance in caring  
22 for themselves; (6) laundering; (7) cooking; (8) companion  
23 services; (9) chauffeuring; and (10) other household services  
24 for members of households or their guests in or about a private  
25 home or residence or any other location where the domestic work

1 is performed.

2 "Domestic worker" means a person employed to perform  
3 domestic work. "Domestic worker" does not include: (i) a person  
4 performing domestic work who is the employer's parent, spouse,  
5 child, or other member of his or her immediate family,  
6 exclusive of individuals whose primary work duties are  
7 caregiving, companion services, personal care, or home health  
8 services for elderly persons or persons with an illness,  
9 injury, or disability who require assistance in caring for  
10 themselves; (ii) child and day care home providers  
11 participating in the child care assistance program under  
12 Section 9A-11 of the Illinois Public Aid Code; (iii) a person  
13 who is employed by one or more employers in or about a private  
14 home or residence or any other location where the domestic work  
15 is performed for less than 8 hours in the aggregate in any  
16 workweek on a regular basis, exclusive of individuals whose  
17 primary work duties are caregiving, companion services,  
18 personal care, or home health services for elderly persons or  
19 persons with an illness, injury, or disability who require  
20 assistance in caring for themselves; or (iv) a person who (A)  
21 has been and will continue to be free from control and  
22 direction over the performance of his or her work, both under a  
23 contract of service and in fact and (B) is engaged in an  
24 independently established trade, occupation, profession, or  
25 business or the person performing domestic work is deemed a  
26 legitimate sole proprietor or partnership under subsection (c)

1 of Section 10 of the Employee Classification Act, except that  
2 the terms "contractor" and "subcontractor" shall be  
3 substituted for "employer" and "domestic worker" respectively,  
4 as defined under this Act.

5 "Employee" means a domestic worker.

6 "Employ" includes to suffer or permit to work.

7 "Employer" means any individual; partnership; association;  
8 corporation; limited liability company; business trust;  
9 employment and labor placement agencies where wages are made  
10 directly or indirectly by the agency or business for work  
11 undertaken by employees under hire to a third party pursuant to  
12 a contract between the business or agency with the third party;  
13 the State of Illinois and local governments, or any political  
14 subdivision of the State or local government, or State or local  
15 government agency; for which one or more persons is gainfully  
16 employed, express or implied, whether lawfully or unlawfully  
17 employed, who employs a domestic worker or who exercises  
18 control over the domestic worker's wage, remuneration, or other  
19 compensation, hours of employment, place of employment, or  
20 working conditions, or whose agent or any other person or group  
21 of persons acting directly or indirectly in the interest of an  
22 employer in relation to the employee exercises control over the  
23 domestic worker's wage, remuneration or other compensation,  
24 hours of employment, place of employment, or working  
25 conditions.

26 "Live-in domestic worker" means a domestic worker residing

1 on the employer's premises during the tenure of employment.

2 "Work time" means the time during which a domestic worker  
3 is suffered or permitted to work, whether or not required to do  
4 so, and whether or not any physical or mental exertion is  
5 expended by the domestic worker.

6 Section 15. Work time.

7 (a) An employer shall pay the domestic worker for all work  
8 time.

9 (b) Only periods during which a domestic worker is  
10 completely relieved from duty and which are long enough to  
11 enable him or her to use the time effectively for his or her  
12 own purposes (at least 30 minutes) are not hours worked, such  
13 as a 30-minute meal period. Periods of shorter duration must be  
14 counted as work time.

15 (c) When a domestic worker is on duty for a period of 24  
16 consecutive hours or more on a regular basis, the employer and  
17 the domestic worker may agree in writing prior to performance  
18 of the work to exclude a regularly scheduled sleeping period of  
19 no more than 8 hours from working time for each 24-hour period,  
20 provided that the employer provides sleeping quarters that are  
21 adequate, decent, safe, and sanitary, and the domestic worker  
22 can usually enjoy an uninterrupted night's sleep. If the  
23 sleeping time is interrupted by a call to duty, the  
24 interruption must be counted as hours worked. If no prior  
25 written agreement is made, all meal, rest, and sleeping periods

1 shall constitute work time.

2 (d) All live-in domestic workers shall be provided a  
3 sleeping period of at least 8 hours. If the sleeping time is  
4 interrupted by a call to duty, the interruption must be counted  
5 as hours worked. If the period is interrupted to such an extent  
6 that the employee cannot get at least 5 continuous hours of  
7 sleep during the scheduled period on a regular basis the entire  
8 time is work time.

9 Section 20. Sleeping facilities, meals, and costs.

10 (a) An employer shall not charge a domestic worker for the  
11 cost of lodging, meals, equipment, uniforms, transportation,  
12 or any other cost related to his or her employment.

13 (b) All live-in domestic workers shall be provided private  
14 quarters for sleeping and dressing typically used for that  
15 purpose, with reasonable access to bathroom, kitchen, and  
16 laundry facilities. No domestic worker shall be required to  
17 share a bed.

18 (c) Lodging under this Section must be in a condition that  
19 is safe, healthful, fit for occupancy, and in compliance with  
20 terms of a lease, if any, and with the requirements of federal,  
21 State, and local law.

22 (d) Termination of a domestic worker's lodging with his or  
23 her employer is subject to a minimum of 14 days' notice to  
24 vacate if such lodging is the domestic worker's primary  
25 residence. If such notice is not provided, the employer shall

1 pay the domestic worker 14 days of pay at the regular rate to  
2 be paid on the date the domestic worker must vacate the lodging  
3 with his or her employer, in addition to any severance pay that  
4 is due the worker. Such notice need not be given nor payment  
5 made under limited and extraordinary circumstances, such as  
6 when there is probable cause the domestic worker has engaged in  
7 child or elder abuse as defined by Illinois law.

8 (e) An employer shall not employ a domestic worker for work  
9 time of more than 5 hours per day without the opportunity to  
10 eat a meal, whether during work time or not. The opportunity to  
11 eat a meal shall be provided no less than once in every 8 hours  
12 of consecutive work hours.

13 Section 25. Show-up time, scheduled work time and  
14 termination.

15 (a) Two hours of pay at the regular rate shall be paid to  
16 any domestic worker who reports to work but is not put to work  
17 and has not received at least 2 hours prior notice to not to  
18 report for work.

19 (b) Notwithstanding subsection (a), if an employer does not  
20 require the domestic worker to report to work for 2 or more  
21 consecutive days on a temporary basis for any reason, such as  
22 the employer's vacation, or any other change in the work time  
23 schedule on a temporary or permanent basis, the employer shall  
24 provide to the domestic worker notice at least 7 days in  
25 advance of the first day the worker is not required to report

1 to work or there is a change in schedule. If such notice is not  
2 provided and the change in work hours results in fewer work  
3 hours, the domestic worker shall be paid the hours scheduled to  
4 work or 4 hours, whichever is greater, at the regular rate of  
5 pay and shall be paid for each subsequent day of involuntary  
6 time off if no notice is provided. In circumstances where the  
7 change in the work time schedule is not foreseeable by the  
8 employer, making advance notice impossible, notice shall be  
9 given as soon as practical, but not less than 24 hours after  
10 the worker was scheduled for work but was not put to work. In  
11 that circumstance, the domestic worker shall be paid in  
12 accordance with subsection (a).

13 (c) If an employer terminates a domestic worker, the  
14 employer shall provide to the domestic worker notice of  
15 termination at least 14 days in advance of the first day the  
16 worker is not required to report to work. If such notice is not  
17 provided to domestic workers who work 20 or more hours in any  
18 workweek on a regular basis for the terminating employer, the  
19 employer shall pay the domestic worker 14 days of severance pay  
20 at the regular rate of pay from the date of termination, to be  
21 paid no later than the day of termination. If such notice is  
22 not provided to domestic workers who work more than 8 hours and  
23 less than 20 hours in any workweek on a regular basis for the  
24 terminating employer, the employer shall pay the domestic  
25 worker 7 days of severance pay at the regular rate of pay from  
26 the date of termination, to be paid no later than the date of

1 termination. Severance pay need not be paid under limited and  
2 extraordinary circumstances, such as when there is probable  
3 cause the domestic worker has engaged in child or elder abuse  
4 as defined by Illinois law.

5 (d) Any provision included in a relevant collective  
6 agreement supersedes this Section, if applicable.

7 Section 30. Paid time off.

8 (a) If a domestic worker works for one employer more than 8  
9 hours in any workweek on a regular basis, the employer shall  
10 provide paid time off.

11 (b) Paid time off shall accrue at the rate of one hour of  
12 paid time off for every 40 hours of working time for one  
13 employer up to the maximum of 50 hours paid time off. Paid time  
14 off shall be accrued from the first day of employment, but may  
15 not be used until the employee has worked for the employer for  
16 6 months, unless the employer agrees. Once the employee has  
17 worked for 6 months, paid time off may be used as accrued, or  
18 be loaned by the employer, at its discretion, to the employee  
19 in advance of such accrual. In cases where an employer has  
20 loaned paid time off in advance of accrual, an employer shall  
21 not require a domestic worker to reimburse it for any unearned  
22 paid time off. Paid time off shall be permitted to be used in  
23 hourly increments. It is up to the domestic worker to determine  
24 when and how much accrued paid time off to take under this Act.  
25 However, paid time off shall not be used for more than 3

1 consecutive weeks if it results in a complete absence from  
2 employment from the employer subject to the paid time off,  
3 unless the employer agrees. Paid time off shall be provided  
4 upon the oral request of the domestic worker and for any  
5 purpose of the domestic worker's choosing. If the necessity for  
6 paid time off is foreseeable, the domestic worker shall provide  
7 the employer with not less than 7 days' oral notice before the  
8 date the leave is to begin. If the necessity for leave is not  
9 foreseeable, the domestic worker shall provide such notice as  
10 soon as is practical after the domestic worker is aware of the  
11 necessity of such leave. The employer may not require, as a  
12 condition of providing paid time off under this Act, that the  
13 domestic worker search for or find a replacement worker to  
14 cover the hours during which the domestic worker is on paid  
15 time off leave.

16 (c) Paid time off shall carry over annually to the extent  
17 not used by the domestic worker, provided that nothing in this  
18 Act shall be construed to require an employer to allow a worker  
19 to use more than 50 hours of paid time off in a year unless an  
20 employer agrees to do so.

21 (d) Upon oral request, an employer shall provide to a  
22 domestic worker an annual statement in writing indicating the  
23 amount and periods of accrued paid time off, unless the  
24 employer requires the employee to maintain such records as  
25 provided in Section 40 of this Act.

26 (e) During any period a domestic worker takes leave under

1 this Act, the employer shall maintain coverage for the domestic  
2 worker and any family member under any group health plan for  
3 the duration of such leave at at least the level and conditions  
4 of coverage that would have been provided if the domestic  
5 worker had not taken the leave.

6 Section 35. Privacy. An employer is not permitted to  
7 videotape or otherwise record the domestic worker in any of the  
8 bathrooms, in the area where the sleeping accommodations are  
9 provided while the domestic worker is sleeping, or, in the case  
10 of a live-in domestic worker, the domestic worker's living  
11 area.

12 Section 40. Recordkeeping requirements.

13 (a) An employer subject to any provision of this Act shall  
14 make and preserve records that document the name and address of  
15 each employee, whether or not the employee was a live-in  
16 domestic worker, the work hours each day in each workweek, the  
17 rates of pay, the amount paid each pay period, all deductions  
18 made from wages or final compensation, the number of paid time  
19 off hours earned each year and the dates on which paid time off  
20 hours were taken and paid, a copy of a written contract, if  
21 applicable, any charges or deduction from wages for any reason,  
22 and any other information the Director may by rule deem  
23 necessary and appropriate for enforcement of this Act. The  
24 employer may use an accountant or payroll or similar service to

1 make and preserve records on the employer's behalf required  
2 under this Section.

3 (b) The employer is required to maintain these records  
4 however, the employer may require the employee to record hours  
5 worked and paid time off information and submit such record to  
6 the employer. Where there is a reasonable agreement, documented  
7 as provided under subsection (b) of Section 45, the written  
8 contract may be used to establish the employee's hours of work  
9 in lieu of maintaining precise records of the hours actually  
10 worked. The employer shall keep a copy of the contract and  
11 indicate that the employee's work time generally coincides with  
12 the contract. If it is found there is a significant deviation  
13 from the initial contract, a separate record shall be kept for  
14 that period or a new contract shall be reached that reflects  
15 actual facts.

16 (c) An employer subject to any provision of this Act shall  
17 preserve those records for a period of not less than 3 years  
18 and shall make reports from the records as prescribed by rule  
19 or order of the Director, unless the records relate to an  
20 ongoing investigation or enforcement action under this Act, in  
21 which case the records must be maintained until there is an  
22 exhaustion of remedies.

23 (d) An employer shall, upon the oral request of a current  
24 or former employee or his or her representative, make these  
25 records available for inspection and copying by a current or  
26 former employee or his or her representative, at an agreed upon

1 location and time within 7 calendar days after such a request.  
2 If, however, the employer can reasonably show such deadline  
3 cannot be met, the employer shall have an additional 7 days to  
4 comply. An employer may charge a fee for providing a copy of  
5 such information. The fee shall be limited to the actual cost  
6 of duplicating the information.

7 (e) In the absence of employer records, a domestic worker  
8 may not be denied recovery of wages or final compensation on  
9 the basis that the domestic worker is unable to prove the  
10 precise extent of uncompensated work or final compensation. If  
11 an employer requires evidence of hours worked for other  
12 employers, a sworn statement by the employee stating that he or  
13 she has performed or is scheduled to perform domestic work for  
14 more than 8 hours in the aggregate for the relevant workweek  
15 shall satisfy any documentation requirements of hours worked  
16 under this Act. The employer shall not require more than one  
17 sworn statement in a calendar quarter if the hours the employee  
18 has performed or is scheduled to perform domestic work have not  
19 decreased to less than 9 hours in the aggregate in any workweek  
20 in that calendar quarter or less than 100 hours in the  
21 aggregate in the calendar quarter. An employer that requires  
22 evidence of hours worked must give the domestic worker written  
23 notice of such request and allow no less than 10 days or until  
24 the next scheduled work day, whichever is greater, for the  
25 domestic worker to comply.

1           Section 45. Notice and written contract. The Department of  
2 Labor shall create a sample written notice and a sample written  
3 contract and shall make these documents available for retrieval  
4 from the Department's website.

5           (a) Notice. An employer shall notify all domestic workers  
6 and, upon oral request disclose in writing, the following  
7 information, when an offer of employment is made to a domestic  
8 worker:

9                   (1) the starting date, time, and place of employment;

10                   (2) the wage rates to be paid;

11                   (3) the frequency of the payment of wages;

12                   (4) the kinds of domestic work for which the domestic  
13 worker may be employed;

14                   (5) the hours per day, days per week, and period of  
15 employment, including any meal breaks and rest periods.  
16 Where work hours are irregular from day to day or week to  
17 week by mutual agreement, an average monthly work schedule  
18 may satisfy this requirement;

19                   (6) leave policies for both paid and unpaid time off  
20 for the domestic worker;

21                   (7) notice and other policies for involuntary time off  
22 for the domestic worker;

23                   (8) policies regarding notice of termination and  
24 severance pay;

25                   (9) any employee benefit to be provided, and any costs  
26 to be charged for each of them;

1           (10) any other terms and conditions of employment,  
2 including any workplace hazards that may make the domestic  
3 worker vulnerable to illnesses and other physical  
4 problems;

5           (11) the employer's contact information, including his  
6 or her full name, mailing address, and phone number; and

7           (12) any provision included in a relevant collective  
8 bargaining agreement, if applicable.

9           (b) Written contract. If the domestic worker works for one  
10 employer more than 8 hours in any workweek on a regular basis,  
11 the employer shall provide a written contract that includes:

12           (1) the starting date, time, and place of employment;

13           (2) the rate of pay including overtime and additional  
14 compensation for added duties or multilingual skills;

15           (3) the frequency of the payment of wages;

16           (4) work time and, when applicable, meal breaks and  
17 rest periods, paid and unpaid time off, vacations and  
18 holidays, and any foreseeable changes in work schedule,  
19 such as a reduction or increase in hours per week or weeks  
20 per month;

21           (5) any benefits the employer provides and any costs  
22 the domestic worker is expected to pay associated with  
23 those benefits such as health insurance, if any;

24           (6) living accommodations provided by the employer and  
25 policies on vacating the premises;

26           (7) the responsibilities associated with the job;

1           (8) any other terms and conditions of employment,  
2 including workplace hazards that may make the domestic  
3 worker vulnerable to illnesses and other physical  
4 problems;

5           (9) the process for addressing increasing wages and the  
6 process for addressing grievances;

7           (10) the right to privacy as required under Section 35  
8 of this Act;

9           (11) show up time, changes in scheduled work time  
10 policies, and termination and severance pay policies;

11           (12) the contract period;

12           (13) reimbursement for work-related expenses; and

13           (14) any other rights or benefits afforded to the  
14 domestic worker, including State and federal employment  
15 taxes paid or to be paid by the employer related to the  
16 domestic worker's employment and notice of employment  
17 rights in State law; and

18           (15) any provision included in a relevant collective  
19 bargaining agreement, if applicable.

20           If a valid written contract that complies with this Section  
21 is entered into by an individual domestic worker and an  
22 employer, the written contract may include an alternative  
23 reasonable agreement as to certain provisions of this Act, as  
24 indicated in those subsections, as long as the domestic worker  
25 is compensated for all work time.

1 Section 50. Prohibited acts.

2 (a) Interference with rights.

3 (1) It shall be unlawful and a violation of this Act  
4 for any employer or any other person who discharges,  
5 threatens, penalizes, or in any other manner  
6 discriminates, retaliates, or takes any adverse action  
7 against an employee, because the employee or a person or  
8 organization acting on the employee's behalf: (i)  
9 exercises rights or attempts to exercise rights under this  
10 Act; (ii) opposes practices such employee believes to be in  
11 violation of this Act; or (iii) supports the exercise of  
12 rights under this Act. Exercising rights, opposing  
13 practices, or supporting the exercise of rights under this  
14 Act shall include, but not be limited to: (i) filing an  
15 action or instituting or causing to be instituted any  
16 proceeding under or related to this Act; (ii) providing or  
17 preparing to provide any information in connection with any  
18 inquiry or proceeding relating to any right provided under  
19 this Act; (iii) testifying or preparing to testify in any  
20 inquiry or proceeding relating to any right provided under  
21 this Act, in a public hearing, or to a community  
22 organization; or (iv) informing any other person that his  
23 or her employer engages in conduct that the employee  
24 reasonably and in good faith believes violates any  
25 provisions of this Act.

26 (2) An agreement by an employee to waive his or her

1 rights under this Act is void as against public policy. The  
2 benefits provided to employees under this Act may not be  
3 diminished by a collective bargaining agreement or an  
4 employment benefit program or plan entered into or renewed  
5 after the effective date of this Act.

6 (3) It shall be unlawful for an employer to interfere  
7 with, restrain, or deny the exercise of or the attempt to  
8 exercise any right provided under or in connection with  
9 this Act including, but not limited to, using the taking of  
10 paid time off as a negative factor in an employment action  
11 such as hiring, termination, evaluation, promotion,  
12 discipline, or counting the paid time off under a no-fault  
13 attendance policy.

14 (b) Nothing in this Act shall limit an employer's ability  
15 to provide more generous wages, benefits, or working conditions  
16 than those provided under this Act.

17 Section 55. Enforcement.

18 (a) A domestic worker aggrieved by a violation of this Act  
19 or any rule adopted under this Act shall be entitled to  
20 recover, through a claim filed with the Department of Labor or  
21 in a civil action, all legal relief, including actual,  
22 compensatory, and punitive damages plus the penalties provided  
23 herein, with interest at the prevailing rate as is necessary to  
24 remedy violations of this Act, and such equitable relief as may  
25 be appropriate. An action may be brought to the Department of

1 Labor or in a civil action no more than 3 years after the date  
2 of the last event constituting the alleged violation for which  
3 the action is brought. Actions may be brought by one or more  
4 domestic workers for and on behalf of themselves and other  
5 domestic workers similarly situated. The Department and the  
6 court in such an action shall, in addition to any judgment  
7 awarded to the domestic worker, allow reasonable attorney's  
8 fees, reasonable expert witness fees, and other costs of the  
9 action to be paid by the defendant or employer. In addition,  
10 any employer that the Department or a court finds to have  
11 violated any provision of this Act or any rule adopted under  
12 this Act, when the damages equal to the amount of wages,  
13 salary, employment benefits, final compensation, or other  
14 compensation denied or lost the Department or the court has  
15 ordered to be paid by such employer is less than \$1,000 and  
16 when the employer's conduct is proven by a preponderance of the  
17 evidence to be willful, repeated, or with reckless disregard of  
18 this Act or any rule adopted under this Act, the employer is  
19 subject to a civil money penalty not to exceed \$250 for each  
20 separate offense, payable to the domestic worker. Any employer  
21 that the Department or a court finds to have violated any  
22 provision of this Act or any rule adopted under this Act, and  
23 the damages equal to the amount of wages, salary, employment  
24 benefits, final compensation, or other compensation denied or  
25 lost the Department or the court has ordered to be paid by such  
26 employer is \$1,000 or more, and where the employer's conduct is

1 proven by a preponderance of the evidence to be willful,  
2 repeated, or with reckless disregard of this Act or any rule  
3 adopted under this Act, the employer is subject to a civil  
4 money penalty not to exceed \$3,000 for each separate offense,  
5 payable to the domestic worker. In determining the amount of  
6 the penalty, the gravity of the violation shall be considered.  
7 Employers who have employed less than 3 domestic workers  
8 throughout the duration of employment of the aggrieved employee  
9 and have been found to have violated only one provision of this  
10 Act, and where the employer's conduct is not proven to be  
11 willful, repeated, or with reckless disregard of this Act or  
12 any rule adopted under this Act, that employer shall not be  
13 subject to the civil money penalties in this subsection.

14 (b) It shall be the duty of the Department of Labor to  
15 enforce the provisions of this Act. Any person may file a  
16 complaint with the Department against an entity or employer  
17 covered under this Act alleging that the entity or employer is  
18 in violation of this Act. The Department shall have the power  
19 to conduct investigations in connection with the  
20 administration and enforcement of this Act. The Director of  
21 Labor or his or her representative may compel, by subpoena, the  
22 attendance and testimony of witnesses and the production of  
23 books, payrolls, records, papers, and other evidence in any  
24 investigation and may administer oaths to witnesses. If, upon  
25 investigation, the Department finds cause to believe that this  
26 Act has been violated, the Department shall notify the parties

1 in writing, and the matter will be referred to an  
2 Administrative Law Judge to schedule a formal hearing.

3 (c) The Department may establish an administrative  
4 procedure to adjudicate claims and to issue final and binding  
5 administrative decisions on such claims subject to the  
6 Administrative Review Law. To establish such a procedure, the  
7 Director of Labor or her or his authorized representative may  
8 promulgate rules and regulations. The adoption, amendment, or  
9 rescission of rules and regulations for such a procedure shall  
10 be in conformity with the requirements of the Illinois  
11 Administrative Procedure Act.

12 (d) An individual whose rights have been violated under  
13 this Act may seek any and all legal and equitable relief to  
14 remedy violations of this Act, including but not limited to  
15 wages and overtime not paid. The administrative procedures  
16 established under subsection (c) for enforcement shall  
17 supersede the administrative enforcement procedures set forth  
18 in the Minimum Wage Law and the One Day in Rest in Seven Act.

19 (e) Where the Department has found that an employer has  
20 failed to pay wages or overtime to an employee as required by  
21 the Minimum Wage Law the employee shall be entitled to receive  
22 the penalties provided for under the Minimum Wage Law.

23 (f) Where a complaint has been filed with the Department,  
24 any employer who has been ordered by the Department or ordered  
25 by the court to pay wages, and benefits, and other compensation  
26 or other relief due under this Act to an employee shall be

1 required to pay a non-waivable administrative fee to the  
2 Department of Labor in the amount of \$100 if the amount ordered  
3 by the Department as wages owed is \$1,000 or less; \$250 if the  
4 amount ordered by the Department as wages owed is more than  
5 \$1,000, but \$3,000 or less; \$500 if the amount ordered by the  
6 Department as wages owed is more than \$3,000, but less than  
7 \$10,000; and \$1,000 if the amount ordered by the Department as  
8 wages owed is \$10,000 or more. Any employer who has been  
9 ordered by the Department or ordered by a court to pay such  
10 wages, benefits, and other compensation or relief, and who  
11 fails to seek timely review of such an order as provided under  
12 this Act and who fails to comply within 15 calendar days after  
13 such demand or within 35 days of an administrative or court  
14 order is entered shall also be liable to pay a penalty to the  
15 Department of Labor of 20% of the amount found owing.

16 (g) Any employer, or any agent of an employer, who  
17 discharges or in any manner discriminates against any employee  
18 because that employee has made a complaint to his employer, to  
19 the Director of Labor or his authorized representative, in a  
20 public hearing, or to a community organization that he or she  
21 has not been paid in accordance with the provisions of this  
22 Act, or because that employee has caused to be instituted any  
23 proceeding under or related to this Act, or because that  
24 employee has testified in an investigation or proceeding under  
25 this Act, shall be entitled to recover through a claim filed  
26 with the Department of Labor or in a civil action, in the case

1 of discrimination or retaliation, all legal and equitable  
2 relief as may be appropriate and attorney's fees and costs.

3 (h) A final decision of an Administrative Law Judge issued  
4 pursuant to this Section is subject to the provisions of the  
5 Administrative Review Law and shall be enforceable in an action  
6 brought in the name of the people of the State of Illinois by  
7 the Attorney General.

8 (i) Necessary legal action may be brought by the Department  
9 on behalf of the domestic worker to collect the judgment, and  
10 the employer shall be required to pay the costs incurred in  
11 collecting the judgment.

12 (j) A domestic worker or a representative of domestic  
13 workers aggrieved by a violation of this Act or any rule under  
14 this Act may file suit in circuit court in the county where the  
15 alleged violation occurred or where any domestic worker who is  
16 a party to this action resides, without regard to exhaustion of  
17 remedies provided in this Act. Actions may be brought by one or  
18 more domestic workers for and on behalf of themselves and other  
19 domestic workers similarly situated.

20 (k) All moneys recovered as fees and civil penalties by the  
21 Department under this Act, except those owing to the affected  
22 employee, shall be deposited into the Domestic Workers' Fund, a  
23 special fund that is hereby created in the State treasury.  
24 Moneys shall be used by the Department for administration,  
25 investigation and other expenses incurred in carrying out its  
26 duties under this Act. Any moneys in the Fund at the end of the

1 fiscal year in excess of those moneys necessary for the  
2 Department to carry out its powers and duties under this Act  
3 shall be available to the Department for the next fiscal year  
4 for any of its duties.

5 (l) The Director shall adopt rules necessary to administer  
6 and enforce this Act in accordance with the Illinois  
7 Administrative Procedure Act. The Attorney General of Illinois  
8 may intervene on behalf of the Department if the Department  
9 certifies that the case is of general public importance. Upon  
10 such intervention the court may award such relief as is  
11 authorized to be granted an employee who has filed a complaint  
12 or whose representative has filed a complaint under this  
13 Section.

14 (m) Nothing herein shall be construed to prevent any  
15 employee from making complaint or prosecuting his or her own  
16 claim. Any employee aggrieved by a violation of this Act or any  
17 rule adopted under this Act may file suit in circuit court of  
18 Illinois, in the county where the alleged violation occurred or  
19 where any employee who is party to the action resides, without  
20 regard to exhaustion of administrative remedies provided in  
21 this Act. Actions may be brought by one or more employees for  
22 and on behalf of themselves and other employees similarly  
23 situated.

24 (n) An individual whose rights have been violated under  
25 this Act may seek any and all remedies provided in this Act,  
26 including reasonable attorney's fees for the prevailing

1 employee, whether those remedies are obtained through court  
2 order, a suit, or a claim that is settled by private agreement.  
3 The rights and remedies specified under this Act are cumulative  
4 and nonexclusive and are in addition to any other rights or  
5 remedies afforded by contract or under other provisions of  
6 Illinois law.

7 Section 90. The State Finance Act is amended by adding  
8 Section 5.855 as follows:

9 (30 ILCS 105/5.855 new)

10 Sec. 5.855. The Domestic Workers' Fund.

11 Section 91. The Illinois Human Rights Act is amended by  
12 changing Section 2-101 as follows:

13 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)

14 Sec. 2-101. Definitions. The following definitions are  
15 applicable strictly in the context of this Article.

16 (A) Employee.

17 (1) "Employee" includes:

18 (a) Any individual performing services for  
19 remuneration within this State for an employer;

20 (b) An apprentice;

21 (c) An applicant for any apprenticeship.

22 (2) "Employee" does not include:

1 (a) (Blank); ~~Domestic servants in private homes;~~

2 (b) Individuals employed by persons who are not  
3 "employers" as defined by this Act;

4 (c) Elected public officials or the members of  
5 their immediate personal staffs;

6 (d) Principal administrative officers of the State  
7 or of any political subdivision, municipal corporation  
8 or other governmental unit or agency;

9 (e) A person in a vocational rehabilitation  
10 facility certified under federal law who has been  
11 designated an evaluatee, trainee, or work activity  
12 client.

13 (B) Employer.

14 (1) "Employer" includes:

15 (a) Any person employing 15 or more employees  
16 within Illinois during 20 or more calendar weeks within  
17 the calendar year of or preceding the alleged  
18 violation;

19 (b) Any person employing one or more employees when  
20 a complainant alleges civil rights violation due to  
21 unlawful discrimination based upon his or her physical  
22 or mental disability unrelated to ability or sexual  
23 harassment;

24 (c) The State and any political subdivision,  
25 municipal corporation or other governmental unit or  
26 agency, without regard to the number of employees;

1           (d) Any party to a public contract without regard  
2           to the number of employees;

3           (e) A joint apprenticeship or training committee  
4           without regard to the number of employees.

5           (2) "Employer" does not include any religious  
6           corporation, association, educational institution,  
7           society, or non-profit nursing institution conducted by  
8           and for those who rely upon treatment by prayer through  
9           spiritual means in accordance with the tenets of a  
10          recognized church or religious denomination with respect  
11          to the employment of individuals of a particular religion  
12          to perform work connected with the carrying on by such  
13          corporation, association, educational institution, society  
14          or non-profit nursing institution of its activities.

15          (C) Employment Agency. "Employment Agency" includes both  
16          public and private employment agencies and any person, labor  
17          organization, or labor union having a hiring hall or hiring  
18          office regularly undertaking, with or without compensation, to  
19          procure opportunities to work, or to procure, recruit, refer or  
20          place employees.

21          (D) Labor Organization. "Labor Organization" includes any  
22          organization, labor union, craft union, or any voluntary  
23          unincorporated association designed to further the cause of the  
24          rights of union labor which is constituted for the purpose, in  
25          whole or in part, of collective bargaining or of dealing with  
26          employers concerning grievances, terms or conditions of

1 employment, or apprenticeships or applications for  
2 apprenticeships, or of other mutual aid or protection in  
3 connection with employment, including apprenticeships or  
4 applications for apprenticeships.

5 (E) Sexual Harassment. "Sexual harassment" means any  
6 unwelcome sexual advances or requests for sexual favors or any  
7 conduct of a sexual nature when (1) submission to such conduct  
8 is made either explicitly or implicitly a term or condition of  
9 an individual's employment, (2) submission to or rejection of  
10 such conduct by an individual is used as the basis for  
11 employment decisions affecting such individual, or (3) such  
12 conduct has the purpose or effect of substantially interfering  
13 with an individual's work performance or creating an  
14 intimidating, hostile or offensive working environment.

15 (F) Religion. "Religion" with respect to employers  
16 includes all aspects of religious observance and practice, as  
17 well as belief, unless an employer demonstrates that he is  
18 unable to reasonably accommodate an employee's or prospective  
19 employee's religious observance or practice without undue  
20 hardship on the conduct of the employer's business.

21 (G) Public Employer. "Public employer" means the State, an  
22 agency or department thereof, unit of local government, school  
23 district, instrumentality or political subdivision.

24 (H) Public Employee. "Public employee" means an employee of  
25 the State, agency or department thereof, unit of local  
26 government, school district, instrumentality or political

1 subdivision. "Public employee" does not include public  
2 officers or employees of the General Assembly or agencies  
3 thereof.

4 (I) Public Officer. "Public officer" means a person who is  
5 elected to office pursuant to the Constitution or a statute or  
6 ordinance, or who is appointed to an office which is  
7 established, and the qualifications and duties of which are  
8 prescribed, by the Constitution or a statute or ordinance, to  
9 discharge a public duty for the State, agency or department  
10 thereof, unit of local government, school district,  
11 instrumentality or political subdivision.

12 (J) Eligible Bidder. "Eligible bidder" means a person who,  
13 prior to a bid opening, has filed with the Department a  
14 properly completed, sworn and currently valid employer report  
15 form, pursuant to the Department's regulations. The provisions  
16 of this Article relating to eligible bidders apply only to bids  
17 on contracts with the State and its departments, agencies,  
18 boards, and commissions, and the provisions do not apply to  
19 bids on contracts with units of local government or school  
20 districts.

21 (K) Citizenship Status. "Citizenship status" means the  
22 status of being:

- 23 (1) a born U.S. citizen;  
24 (2) a naturalized U.S. citizen;  
25 (3) a U.S. national; or  
26 (4) a person born outside the United States and not a

1 U.S. citizen who is not an unauthorized alien and who is  
2 protected from discrimination under the provisions of  
3 Section 1324b of Title 8 of the United States Code, as now  
4 or hereafter amended.

5 (Source: P.A. 97-877, eff. 8-2-12.)

6 Section 92. The Minimum Wage Law is amended by changing  
7 Section 3 as follows:

8 (820 ILCS 105/3) (from Ch. 48, par. 1003)

9 Sec. 3. As used in this Act:

10 (a) "Director" means the Director of the Department of  
11 Labor, and "Department" means the Department of Labor.

12 (b) "Wages" means compensation due to an employee by reason  
13 of his employment, including allowances determined by the  
14 Director in accordance with the provisions of this Act for  
15 gratuities and, when furnished by the employer, for meals and  
16 lodging actually used by the employee.

17 (c) "Employer" includes any individual, partnership,  
18 association, corporation, limited liability company, business  
19 trust, governmental or quasi-governmental body, or any person  
20 or group of persons acting directly or indirectly in the  
21 interest of an employer in relation to an employee, for which  
22 one or more persons are gainfully employed on some day within a  
23 calendar year. An employer is subject to this Act in a calendar  
24 year on and after the first day in such calendar year in which

1 he employs one or more persons, and for the following calendar  
2 year.

3 (d) "Employee" includes any individual permitted to work by  
4 an employer in an occupation including one or more domestic  
5 workers, as defined in the Domestic Workers' Bill of Rights  
6 Act, but does not include any individual permitted to work:

7 (1) For an employer employing fewer than 4 employees  
8 exclusive of the employer's parent, spouse or child or  
9 other members of his immediate family.

10 (2) As an employee employed in agriculture or  
11 aquaculture (A) if such employee is employed by an employer  
12 who did not, during any calendar quarter during the  
13 preceding calendar year, use more than 500 man-days of  
14 agricultural or aquacultural labor, (B) if such employee is  
15 the parent, spouse or child, or other member of the  
16 employer's immediate family, (C) if such employee (i) is  
17 employed as a hand harvest laborer and is paid on a piece  
18 rate basis in an operation which has been, and is  
19 customarily and generally recognized as having been, paid  
20 on a piece rate basis in the region of employment, (ii)  
21 commutes daily from his permanent residence to the farm on  
22 which he is so employed, and (iii) has been employed in  
23 agriculture less than 13 weeks during the preceding  
24 calendar year, (D) if such employee (other than an employee  
25 described in clause (C) of this subparagraph): (i) is 16  
26 years of age or under and is employed as a hand harvest

1 laborer, is paid on a piece rate basis in an operation  
2 which has been, and is customarily and generally recognized  
3 as having been, paid on a piece rate basis in the region of  
4 employment, (ii) is employed on the same farm as his parent  
5 or person standing in the place of his parent, and (iii) is  
6 paid at the same piece rate as employees over 16 are paid  
7 on the same farm.

8 (3) (Blank) ~~In domestic service in or about a private~~  
9 ~~home.~~

10 (4) As an outside salesman.

11 (5) As a member of a religious corporation or  
12 organization.

13 (6) At an accredited Illinois college or university  
14 employed by the college or university at which he is a  
15 student who is covered under the provisions of the Fair  
16 Labor Standards Act of 1938, as heretofore or hereafter  
17 amended.

18 (7) For a motor carrier and with respect to whom the  
19 U.S. Secretary of Transportation has the power to establish  
20 qualifications and maximum hours of service under the  
21 provisions of Title 49 U.S.C. or the State of Illinois  
22 under Section 18b-105 (Title 92 of the Illinois  
23 Administrative Code, Part 395 - Hours of Service of  
24 Drivers) of the Illinois Vehicle Code.

25 The above exclusions from the term "employee" may be  
26 further defined by regulations of the Director.

1 (e) "Occupation" means an industry, trade, business or  
2 class of work in which employees are gainfully employed.

3 (f) "Gratuities" means voluntary monetary contributions to  
4 an employee from a guest, patron or customer in connection with  
5 services rendered.

6 (g) "Outside salesman" means an employee regularly engaged  
7 in making sales or obtaining orders or contracts for services  
8 where a major portion of such duties are performed away from  
9 his employer's place of business.

10 (h) "Day camp" means a seasonal recreation program in  
11 operation for no more than 16 weeks intermittently throughout  
12 the calendar year, accommodating for profit or under  
13 philanthropic or charitable auspices, 5 or more children under  
14 18 years of age, not including overnight programs. The term  
15 "day camp" does not include a "day care agency", "child care  
16 facility" or "foster family home" as licensed by the Illinois  
17 Department of Children and Family Services.

18 (Source: P.A. 94-1025, eff. 7-14-06; 95-945, eff. 1-1-09.)

19 Section 93. The Wages of Women and Minors Act is amended by  
20 changing Section 1 as follows:

21 (820 ILCS 125/1) (from Ch. 48, par. 198.1)

22 Sec. 1. As used in this Act:

23 "Department" means the Department of Labor.

24 "Director" means the Director of the Department of Labor.

1 "Wage Board" means a board created as provided in this Act.

2 "Woman" means a female of 18 years or over.

3 "Minor" means a person under the age of 18 years.

4 "Occupation" means an industry, trade or business or branch  
5 thereof or class of work therein in which women or minors are  
6 gainfully employed, but does not include ~~domestic service in~~  
7 ~~the home of the employer or~~ labor on a farm.

8 "An oppressive and unreasonable wage" means a wage which is  
9 both less than the fair and reasonable value of the services  
10 rendered and less than sufficient to meet the minimum cost of  
11 living necessary for health.

12 "A fair wage" means a wage fairly and reasonably  
13 commensurate with the value of the services or class of service  
14 rendered. In establishing a minimum fair wage for any service  
15 or class of service under this Act the Department and the wage  
16 board without being bound by any technical rules of evidence or  
17 procedure (1) may take into account all relevant circumstances  
18 affecting the value of the service or class of service  
19 rendered, and (2) may be guided by like considerations as would  
20 guide a court in a suit for the reasonable value of services  
21 rendered where services are rendered at the request of an  
22 employer without contract as to the amount of the wage to be  
23 paid, and (3) may consider the wages paid in the State for work  
24 of like or comparable character by employers who voluntarily  
25 maintain minimum fair wage standards.

26 "A directory order" means an order the nonobservance of

1 which may be published as provided in Section 9 of this Act.

2 "A mandatory order" means an order the violation of which  
3 is subject to the penalties prescribed in paragraph 2 of  
4 Section 15 of this Act.

5 (Source: P.A. 91-357, eff. 7-29-99.)

6 Section 94. The One Day Rest In Seven Act is amended by  
7 changing Section 2 as follows:

8 (820 ILCS 140/2) (from Ch. 48, par. 8b)

9 Sec. 2. Hours and days of rest in every calendar week.

10 (a) Every employer shall allow every employee except those  
11 specified in this Section at least twenty-four consecutive  
12 hours of rest in every calendar week in addition to the regular  
13 period of rest allowed at the close of each working day. A  
14 person employed as a domestic worker, as defined in Section 10  
15 of the Domestic Workers' Bill of Rights Act, shall be allowed  
16 at least 24 consecutive hours of rest in every calendar week.  
17 This subsection (a) does not prohibit a domestic worker from  
18 voluntarily agreeing to work on such day of rest required by  
19 this subsection (a); provided that the worker is compensated at  
20 the overtime rate for all hours worked on such day of rest. The  
21 day of rest authorized under this subsection (a) should,  
22 whenever possible, coincide with the traditional day reserved  
23 by the domestic worker for religious worship. The hours and  
24 days of rest allowed under this Act shall be in addition to any

1 paid time off earned under Section 40 of the Domestic Workers'  
2 Bill of Rights Act.

3 (b) Subsection (a) ~~This Section~~ does not apply to the  
4 following:

5 (1) Part-time employees whose total work hours for one  
6 employer during a calendar week do not exceed 20; and

7 (2) Employees needed in case of breakdown of machinery or  
8 equipment or other emergency requiring the immediate services  
9 of experienced and competent labor to prevent injury to person,  
10 damage to property, or suspension of necessary operation; and

11 (3) Employees employed in agriculture or coal mining; and

12 (4) Employees engaged in the occupation of canning and  
13 processing perishable agricultural products, if such employees  
14 are employed by an employer in such occupation on a seasonal  
15 basis and for not more than 20 weeks during any calendar year  
16 or 12 month period; and

17 (5) Employees employed as watchmen or security guards; and

18 (6) Employees who are employed in a bonafide executive,  
19 administrative, or professional capacity or in the capacity of  
20 an outside salesman, as defined in Section 12 (a) (1) of the  
21 federal Fair Labor Standards Act, as amended, and those  
22 employed as supervisors as defined in Section 2 (11) of the  
23 National Labor Relations Act, as amended; and

24 (7) Employees who are employed as crew members of any  
25 uninspected towing vessel, as defined by Section 2101(40) of  
26 Title 46 of the United States Code, operating in any navigable

1 waters in or along the boundaries of the State of Illinois.

2 (Source: P.A. 92-623, eff. 7-11-02.)

3 Section 97. Severability. If any provision of this Act or  
4 the application of such provision to any person or circumstance  
5 is preempted by or held to be in violation of Illinois or  
6 federal law or regulation, the remainder of the provisions of  
7 this Act and the application of those provisions to any person  
8 or circumstance shall not be affected.

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.".